

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

THOMAS BONDURANT and MICHELLE  
BONDURANT, husband and wife,

Plaintiff,

v.

CITY OF BATTLEGROUND and the  
BATTLEGROUND POLICE  
DEPARTMENT,

Defendant.

Case No. 3:15-cv-05719-KLS

ORDER GRANTING PLAINTIFFS'  
MOTION TO AMEND COMPLAINT AND  
DENYING ALL OTHER OUTSTANDING  
MOTIONS

This matter is before the Court on plaintiffs' second motion to amend their complaint to include claims of defamation of character, racial discrimination, and malicious arrest.<sup>1</sup> On May 26, 2016, the Court denied plaintiff's first motion to amend their complaint because they did not include a copy of their proposed amended complaint, but granted them the opportunity to re-file their motion in accordance with the requirements of Local Rule LCR 15.<sup>2</sup> As plaintiffs have now done so, the Court ORDERS as follows:

Because plaintiffs have filed their amended complaint more than six months after defendants filed their answer, they can amend their complaint "only with the opposing party's

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<sup>1</sup> Dkt. 51.

<sup>2</sup> Dkt. 28, 35.

written consent or the court's leave."<sup>3</sup> Defendants have not provided written consent, and while leave should "be freely given when justice so requires," the decision to grant it is "within the trial court's discretion."<sup>4</sup> Because there is no indication that either the current named defendants or those who have been newly named but not yet served will be prejudiced by allowing plaintiffs to file their amended complaint,<sup>5</sup> plaintiffs' motion to do so is GRANTED.

In addition, because plaintiffs' first amended complaint has not yet been served on all of the named defendants, the amended complaint contains new and additional allegations of fact, and a new pretrial scheduling order – setting new discovery, dispositive motion, trial and other dates – will need to be issued upon completion of service and filing of an amended answer, the following motions are DENIED as moot:

- Plaintiffs' motion to extend discovery;<sup>6</sup>
- Plaintiffs' motion to compel interrogatories and requests for production;<sup>7</sup> and
- Defendants' motion for summary judgment.<sup>8</sup>

In addition, the current pretrial scheduling order, including the current trial date,<sup>9</sup> is STRICKEN for the same reasons.

**Plaintiffs should be aware, however, that they are responsible for effecting proper service on all defendants who have not yet been served in this matter in accordance with**

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<sup>3</sup> Federal Rule of Civil Procedure 15a.

<sup>4</sup> *Klamath-Lake Pharmaceutical Assoc. v. Klamath Medical Serv. Bureau*, 701 F.2d 1276, 1292 (9th Cir. 1983); Fed. R. Civ. P. 15(a)(2).

<sup>5</sup> Dkt. 39.

<sup>6</sup> Dkt. 37.

<sup>7</sup> Dkt. 50.

<sup>8</sup> Dkt. 40.

<sup>9</sup> Dkt. 24.

1 **the Federal Rules of Civil Procedure.**

2 DATED this 1st day of August, 2016.

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6 Karen L. Strombom  
7 United States Magistrate Judge  
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